

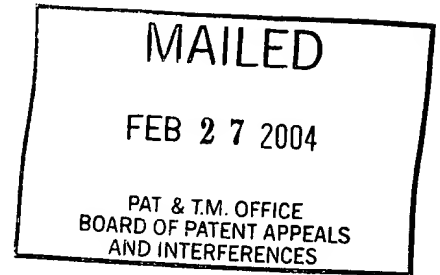
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte NORBERT WOLTERS  
and  
RICHARD WÜBBELS

Application No. 09/727,134

ORDER RETURNING UNDOCKETED APPEAL



This application was received at the Board of Patent Appeals and Interferences on February 10, 2004. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith returned to the examiner. The matters requiring attention prior to docketing are identified below.

An examination of the file reveals that an Appeal Brief was filed on November 13, 2002 (no paper number given). It should be noted that the Appeal Brief has not been physically entered onto the Contents page of the application. Correction is required. This deficiency was previously noted in the ORDER

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RETURNING UNDOCKETED APPEAL mailed December 24, 2003 (Paper No. 12).

The examiner acknowledged the Appeal Brief filed November 13, 2002 (no paper number given) in a communication mailed December 27, 2002 (Paper No. 11). Section 1208 of the Manual of Patent Examining Procedure (8th Ed., Aug. 2001) (MPEP) states:

(A) REQUIREMENTS FOR EXAMINER'S ANSWER.  
***The examiner's answer is required to include,***  
under appropriate headings, in the order  
indicated, ***the following items*** [Emphasis  
added]:

. . . . .

(9) References of Record. A listing of  
the references of record relied on, and, in  
the case of nonpatent references, the  
relevant page or pages.

The Examiner's Answer mailed December 27, 2002 (Paper No. 11) does not comply with the above requirement. Correction is required. It should be noted that this deficiency was also noted in the ORDER RETURNING UNDOCKETED APPEAL mailed December 24, 2003 (Paper No. 12).

Pursuant to a memorandum dated April 29, 2002 by Stephen G. Kunin, Deputy Commissioner for Patent Examination Policy:

Effective immediately, no appeal should be forwarded to the Board of Patent Appeals and Interferences for decision where: . . . (2) a rejection is supported in whole or part by a prior art document not in the English language, unless accompanied by a translation of the prior art document into English.

If the Weigert reference (WO 99/03323) is to be included in the "References of Record" of the Examiner's Answer mailed December 27, 2002 (Paper No. 11), this file is not in compliance with the above requirement because it does not contain an English translation of the Weigert reference, WO 99/03323 dated January 28, 1999.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

1. for physical entry of the Appeal Brief filed November 13, 2002 onto the Contents page of the application wrapper; ✓

2. for inclusion and proper response to the "References of Record" section in the Examiner's Answer mailed December 27, 2002 (Paper No. 11);

3. if appropriate, for providing a certified English language translation for the Weigert reference, WO 99/03323 dated January 28, 1999; and ✓

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4. for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

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